

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MAJOR C. SEABURY,

Plaintiff,

-against-

UNITED STATES, and THE STATE OF
NEW YORK, ET AL.,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

In a *sua sponte* Memorandum and Order dated March 19, 2010, the court dismissed Plaintiff's Complaint as frivolous. (Docket Entry # 5.) On July 9, 2010, Plaintiff filed a motion for default judgment. (Docket Entry # 7.) By order dated July 15, 2010, the court denied the motion finding that Defendants were under no obligation to respond to the Complaint because the court had dismissed the action. (Docket Entry # 8.) The court also noted that Plaintiff had moved for default judgment in a closed case once before and therefore warned Plaintiff that the future filing of frivolous motions would result in a filing injunction or other appropriate sanctions. (Id.) On August 20, 2010, Plaintiff filed an "Amended Affidavit in Support of Application for Default Judgment." (Docket Entry # 9.) By order dated September 2, 2010, the court denied the motion and again warned Plaintiff that the future filing of frivolous motions would result in a filing injunction or other appropriate sanctions. Undeterred, Plaintiff now files a "Request to Enter Default" along with supporting documents. (Docket Entry # 11.)

Plaintiff has not heeded the court's warnings and continues to file frivolous default judgment motions in a case that was itself dismissed as frivolous. Accordingly, Plaintiff's

motion for entry of a default judgment is DENIED, and Plaintiff is ordered to explain, by February 28, 2011, why he should not be enjoined from filing any future pleading, amended pleading, motion, application, affirmation, affidavit, or declaration in this action without first obtaining leave of court to do so. See Hong Mai Sa v. Doe, 406 F.3d 155, 158 (2d Cir. 2005) (“If a litigant has a history of filing vexatious, harassing or duplicative lawsuits, courts may impose sanctions, including restrictions on future access to the judicial system.”).

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
January 25, 2011

NICHOLAS G. GARAUFIS
United States District Judge